

STATE OF NEW MEXICO
COUNTY OF LUNA
SIXTH JUDICIAL DISTRICT COURT

DANA AUSTIN AND RENAE YELL

vs.

DISTRIBUTION EXPRESS, INC. AND
WILLIAM NICHOLS VIROSTKO

NO. D-619-CV-201200044

COMPLAINT TO RECOVER DAMAGES FOR PERSONAL INJURY

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Plaintiffs, Dana Austin and Renae Yell, and state their claim for relief against Defendants Distribution Express, Inc. and William Nichols Virostko and respectfully show the Court as follows:

1. Plaintiff Dana Austin is a resident of the state of Florida.

Plaintiff Renae Yell is a resident of the state of Oregon.

2. Defendant Distribution Express, Inc. (hereinafter "Defendant Distribution Express") is a California corporation or other business entity, doing business in the State of New Mexico at all times relevant hereto, whose address is 19801 South Santa Fe Avenue, Compton, California 90221-5915.

Defendant Virostko is a resident of the state of Oklahoma.

Both Defendants may be served by serving Lori Grubb, Gallagher Bassett Claims Management, P. O. Box 30840, Laguna Hills, CA 92654, by certified mail, return receipt requested. Ms. Grubb has agreed to accept service as authorized representative for both Defendants herein.

3. On or about January 28, 2011, in Luna County, New Mexico, on Interstate Highway 10, Plaintiff Dana Austin was lawfully operating her vehicle in which Plaintiff Renae Yell was a passenger when a vehicle being operated by Defendant Virostko violently collided with their vehicle causing the injuries and damages sued for herein.

4. At all times relevant hereto, Defendant Virostko was an agent, servant and/or employee of Defendant Distribution Express and was within the course and

Exhibit A

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scope of said agency, servitude or employment with said Defendant Distribution Express, as the case may be.

5. The collision and resulting injuries and damages sued for herein were directly caused by the negligence and/or careless acts of Defendant Virostko in one or more of the following particulars:

- (a) in operating his vehicle in a careless, inattentive manner in violation of the law of the state of New Mexico;
- (b) in failing to keep a proper lookout;
- (c) in failing to timely apply his brakes;
- (d) in failing to avoid the collision;
- (e) in traveling at an unsafe speed;
- (f) in operating his vehicle in violation of DOT regulations;

6. The collision and resulting injuries and damages sued for herein were directly caused by the negligence and/or careless acts of Defendant Distribution Express in one or more of the following particulars:

- (a) in hiring an incompetent employee
- (b) in retaining an incompetent employee
- (c) in failing to adequately train;
- (d) in failing to adopt and enforce safety rules for its drivers.

7. As a result of the collision, Plaintiff Dana Austin sustained severe, permanent and disabling personal injuries; she has suffered and will continue to suffer great pain and anguish of body and mind; she has been and will be prevented from her occupation, affairs and duties, including, but not limited to household duties, and she has and will sustain a loss of her earnings as well as a loss of her earning capacity; she has incurred and will incur expenses for reasonable and necessary medical care, treatment and services; she has and will incur other expenses as a result of this

collision; she has suffered physical impairment in the past and such physical impairment is, in all reasonable probability, permanent; she has been disfigured in the past and part of said disfigurement may be permanent.

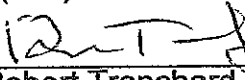
8. As a result of the collision, Plaintiff Renae Yell sustained severe, permanent and disabling personal injuries; she has suffered and will continue to suffer great pain and anguish of body and mind; she has been and will be prevented from her occupation, affairs and duties, including, but not limited to household duties, and she has and will sustain a loss of her earnings as well as a loss of her earning capacity; she has incurred and will incur expenses for reasonable and necessary medical care, treatment and services; she has and will incur other expenses as a result of this collision; she has suffered physical impairment in the past and such physical impairment is, in all reasonable probability, permanent; she has been disfigured in the past and part of said disfigurement may be permanent.

WHEREFORE, Plaintiffs demand judgment against and the following relief from Defendants:

- (a) the amount of Plaintiffs' compensatory damages resulting from Defendants' negligence in such sums determined by the fact finders in this case;
- (b) pre-judgment and post-judgment interest; and,
- (c) such other relief as the Court deems appropriate.

Respectfully submitted,

TRENCHARD & HOSKINS
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By: 
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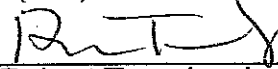
NO. _____

DEMAND AND REQUEST FOR JURY TRIAL

Please take notice that Plaintiffs, Dana Austin and Renae Yell, demand trial by a jury of six in this action.

Respectfully submitted,

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